IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1453 OF 2003

The State of Maharashtra ...Appellant.

V/s

1. Hanumant Eknath Sutar
2. Shyamrao Jalindar Waghmare ...Respondents.

Mr. D.P. Adsule, APP for the State.

Mr. Amit Sale for the respondents.

CORAM: V.M.KANADE,J.
DATE: 19th January, 2005

P.C.

1. The State has filed this appeal challenging the Judgment and Order passed by the Additional Sessions Judge, Khed in Special Case No. 24 of 2003. By the said Judgment and Order dated 7/8/2003, the Additional Sessions Judge was pleased to acquit the accused of the offence punishable under section 3(1)(x) of the Scheduled Caste & Schedules Tribes (Prevention of Atrocities) Act, 1989 and under section 7(1)((d) of the Protection of Civil Rights Act, 1955 and under section 506 read with section 34 of the Indian Penal Code.

2. Prosecution case in brief is that the accused insulted P.W.2 - Walmik Parhar by calling him by his

caste name and criminally intimidated him. The prosecution in support of its case examined six witnesses out of which P.W.1 - Sanjay Mahadik was declared as hostile by the prosecution. The learned APP has taken me through the judgment and order of the Trial Court as also record and proceedings which were called.

3. I have perused the oral and documentary evidence adduced by the prosecution. The complainant P.W.2 - Walmik Parhar and P.W. 3 - Vishnu Jaybhaye were working as lecturers in Mandangad Arts and Commerce College. There was a Local Management Committee of the college which consisted of three representatives of the teachers from the College. The complainant P.W. 2 - Walmik was one of the members of the Local Managing Committee and his term was to expire in June, 2002. There was, however, a dispute between the College Management and the lecturers and, therefore, P.W.2 - Walmik and the other members resigned and, in their place, three representatives of the teachers were elected and the Principal of the college was given due intimation about the same. From the evidence, it can be seen that the accused were elected in the place of P.W.2 - Walmik and the other two representatives. However, they wrote a letter -

Exhibit-22 informing the Principal that they had resigned and could not accept the invitation of the Local Managing Committee. From this letter Exhibit-22, it can be seen that the meeting was scheduled to be held on 18/3/2002. The incident in question is alleged to have taken place on 18/10/2002. The Trial Court has considered the evidence adduced by the prosecution at length and has given cogent reasons for not accepting the testimony of the prosecution witnesses particularly in the light of the dispute between the complainant and the Principal of the College and other members of the Managing Committee and the accused. On the other hand, the Trial Court has observed that one of the key witnesses Shri Dnyandeo Geete was not examined by the prosecution and, therefore, the Trial Court has drawn adverse inference against the prosecution. Further, the Trial Court has observed that there is no documentary evidence to show that the complainant and the other witnesses were injured. In the light of the observations made by the Trial Court, I am of the view that no case is made out by the State for interfering with the Judgment and Order of the Trial Court. The Trial Court has also taken exception to the delay in filing the F.I.R. in respect of the said incident and has observed that the prosecution has not

satisfactorily explained the delay in lodging the F.I.R.

4. In my view, this is not a fit case for interfering with the Judgment and Order of the Trial Court. Leave is therefore refused. Appeal is dismissed.

V.M. KANADE, J.